UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/437,590	11/09/1999	BRANT L. CANDELORE	80398.P217	8195

7590   12/05/2003

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EXAMINER
WINTER, JOHN M

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _08 September 2003_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-102_ is/are pending in the application.

    4a) Of the above claim(s) _1-73_ is/are withdrawn from consideration.

5)☒ Claim(s) _87- 95_ is/are allowed.

6)☒ Claim(s) _73-76,80-83,and 96-101_ is/are rejected.

7)☒ Claim(s) _77-79, 84-86 and 102_ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
        application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)
since a specific reference was included in the first sentence of the specification or in an Application Data Sheet.
37 CFR 1.78.
    a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific
reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)   4)☐ Interview Summary (PTO-413) Paper No(s). _____ .
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5)☐ Notice of Informal Patent Application (PTO-152)
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6)☐ Other: .

DETAILED ACTION

Status
Claims 1-72 have been canceled
Claims 73-102 have been appended.

Response to Arguments

The Applicants arguments filed on September 8, 2003 have been fully considered.

The amended claims are rejected in view of the newly discovered references Hirose (US Patent 5,917,915) and (US Patent 5,897,218). See following rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 73-76, 80-83, and 96-101 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirose (US Patent 5,917,915) in view of Nishimura et al.(US Patent 5,897,218)

As per claim 73,

Hirose ('915) discloses a copy management method for controlling storage and reproduction of digital content, comprising:

receiving a digital bitstream including program data, the program data including system information and the digital content in a scrambled format; (Column 2, lines 49-67, column 3, lines 1-4)

descrambling the digital content in the scrambled format to provide a first output including the digital content in a descrambled format;(Column 3, lines 2-4)

Hirose ('915) does not explicitly disclose concurrently outputting the first output including the digital content in the descrambled format for display and a second output including the digital content in the scrambled format for storage. Nishimura et al.('218) discloses concurrently outputting the first output including the digital content in the descrambled format for display and a second output including the digital content in the scrambled format for storage. (Column 1, lines 58-67, column 2, lines 1-8). It would be obvious to one having ordinary skill in the art at the time the invention was made to combine the Hirose method with the Nishimura et al. method in order to eliminate the possibility that the general public might by content that is designated pay per view.

As per claim 74,
Hirose ('915) discloses the copy management method of claim 73,
wherein the second output is based on the first output.(Column 3, lines 2-9)

As per claim 75,
Hirose ('915) discloses the copy management method of claim 73,
wherein the descrambling of the digital content and the concurrent outputting of the first
output and the second output are performed by a first conditional access unit.(Figure 5)

As per claim 76,
Hirose ('915) discloses the copy management method of claim 73
Hirose ('915) does not explicitly disclose the storage of the second output comprises
storing the digital content along with at least one access requirement. Nishimura et al.('218)
discloses the storage of the second output comprises storing the digital content along with at least
one access requirement. (Column 1, lines 62-67, column 2, lines 1-8). It would be obvious to
one having ordinary skill in the art at the time the invention was made to combine the Hirose
method with the Nishimura et al. method in order to eliminate the possibility that the general
public might by content that is designated pay per view.

As per claim 80,
Hirose ('915) discloses the copy management method of claim 73
Claim 80. (New) The copy management method of claim 73, wherein
Official Notice is taken that "prior to descrambling the digital content, the method further
comprisising:demodulating the digital bitstream to recover the program data as originally
transmitted." is common and well known in prior art in reference to data transmission. It would
have been obvious to one having ordinary skill in the art at the time the invention was made to
demodulate the digital bitstream because this allows data to be recovered from the transmission.

As per claim 81,
Hirose ('915) discloses the copy management method of claim 73
Hirose ('915) does not explicitly disclose the outputting of the first output and the second
output is performed simultaneously. Nishimura et al.('218) discloses the outputting of the first
output and the second output is performed simultaneously (Column 1, lines 58-67, column 2,
lines 1-8). It would be obvious to one having ordinary skill in the art at the time the invention
was made to combine the Hirose method with the Nishimura et al. method in order to process the
signale more efficiently.

As per claim 82,
Hirose ('915) discloses the copy management method of claim 73
   wherein the digital content is content contained in a digital television
transmission.(Column 2, lines 23-29)

As per claim 83,

Hirose ('915) discloses the copy management method of claim 73, wherein the receiving of the digital bitstream comprising:

routing the program data of the digital bitstream to a conditional access unit upon determination that the program data includes the digital content in the scrambled format.(Figure 5)

Official Notice is taken that "tuning a tuner to a frequency to receive the digital bitstream; demodulating the digital bitstream" is common and well known in prior art in reference to data transmission. It would have been obvious to one having ordinary skill in the art at the time the invention was made to tune and demodulate the digital bitstream because this allows data to be recovered from the transmission.

As per claim 96,

Hirose ('915) discloses a copy management apparatus for controlling recording and reproduction of digital content, comprising:

means for receiving a digital bitstream including program data in a scrambled format, the program data comprises the digital content in a first scrambled format;(Column 2, lines 49-67, column 3, lines 1-4)

means for recovering control information from the program data; (Column 3, lines 2-4)

Hirose ('915) does not explicitly disclose means for descrambling at least the scrambled digital content based on the control information for display and concurrently re-scrambling the digital content for storage of the digital content in a second scrambled format within a storage means. Nishimura et al.('218) discloses means for descrambling at least the scrambled digital content based on the control information for display and concurrently re-scrambling the digital content for storage of the digital content in a second scrambled format within a storage means. (Column 1, lines 58-67, column 2, lines 1-8). It would be obvious to one having ordinary skill in the art at the time the invention was made to combine the Hirose method with the Nishimura et al. method in order to eliminate the possibility that the general public might by content that is designated pay per view.

As per claim 97,

Hirose ('915) discloses the copy management apparatus of claim 96, wherein the storage means being an audio player/recorder. (Figure 5)

As per claim 98

Hirose ('915) discloses the copy management apparatus of claim 96, Official Notice is taken that "the storage means being an digital video cassette recorder (VCR)" is common and well known in prior art in reference to data transmission. It would have been obvious to one having ordinary skill in the art at the time the invention was made to store digital video using a VCR because ethey are inexpensive and readily avalible to consumers.

As per claim 99,

Hirose ('915) discloses the copy management apparatus of claim 96, wherein the storage means being a hard disk recording unit. (Figure 5)

As per claim 100

Hirose ('915) discloses the copy management method of claim 96,

further comprising: means for demodulating the digital bitstream and to transmit the program data in the scrambled format to means for descrambling if the program data includes the digital content in the first scrambled format,(Figure 5).

As per claim 101,

Hirose ('915) discloses the copy management method of claim 101,

further comprising: means for encoding the program data that comprises the digital content in the second scrambled format prior to storage in the storage means.(Figure 5)

Allowable Subject Matter

Claims 87- 95 are allowed

Claims 77-79, 84-86 and 102 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
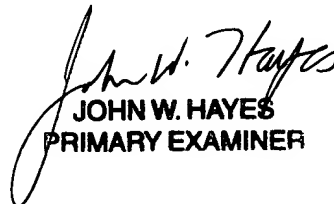
Conclusion

Examiners note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Winter whose telephone number is (703) 305-3971. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P Trammell can be reached on (703)305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

JMW
December 1, 2003

JOHN W. HAYES
PRIMARY EXAMINER